

**Approved 6/9/10**

**TOWN OF CUSHING  
PLANNING BOARD  
May 19, 2010**

**Board Present:** Chair Dan Remian, David Cobey, Bob Ellis, Evelyn Kalloch, Frank Muddle, and  
CEO Scott Bickford

**1. Call to Order:** Chair Remian called the meeting to order at 6:08 P.M. and a roll call was taken.

**2. Nominate and Elect Officers for 2010/2011:**

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Ellis, to nominate Dan Remian as Chair.  
Carried 5-0-0

**ACTION:** Mr. Ellis made a motion, seconded by Mrs. Kalloch, to nominate Frank Muddle as Vice-Chair.  
Carried 5-0-0

Mrs. Kalloch confirmed to the Chair that she would be willing to continue as Secretary.

**3. Approve Minutes: 1/6/10**

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Muddle, to approve the minutes of the 1/6/10 meeting as  
drafted.  
Carried 4-0-1 (Mrs. Kalloch abstained)

**4. Final Plan Review of Meduncook Plantation Subdivision Amendment, Map 6, Lots 9, 10, and 26,  
Presented by Gartley & Dorsky Engineering:** Chair Remian said it appeared that all additional items requested  
had been provided in the applicant's new submittal. Mr. Muddle asked if any of it related to the waiver request,  
saying the Board was waiting for comments from abutters; Mr. Remian added that comments from Fire and Rescue  
and the Road Commissioner had also been lacking. Carlton Johnson said he had met with Joe Carr; they had  
revisited the site in December. Mr. Carr's request, which had been reviewed by Andrew Hedrich of Gartley &  
Dorsky, was to calm the grade as much as possible where the road started around the turnaround. He said neither  
officer was thrilled by the driveway, but recognized it was there. The Fire Chief had said he wanted the residential  
fire-suppression system so he had options depending on weather and conditions. Mr. Ellis said regulations allowed  
the PB to request written comments from Town officials. The Chair said such had been requested, but not received.  
Mr. Ellis read from the regulations that failure to provide written comment was deemed review and approval. Mr.  
Muddle felt the Board should have the comments in writing under these circumstances. Mrs. Kalloch ascertained  
that there would be a turnaround beyond the building site. The homeowner would be responsible for its  
maintenance and Mrs. Kalloch suggested that be a condition of approval.

Machias Savings Bank's Paul Rudd said they wanted to consolidate three old lots (Lots 9, 10, and 26) into two new  
lots and restrict the driveway into the new Lot 10. In addition, the end of the road would be completed with a  
turnaround, and the driveway would be surfaced and finished. Mr. Rudd said there was one small change to the  
common area that was not included in the submittals. The Chair asked about a path through Lot 10 he had seen  
mentioned; Mr. Hedrick said it was an easement from the driveway to the common area for the benefit of the HOA.  
Mr. Rudd said the bank was in the process of deeding the roads, the common areas and some easements to the  
HOA. The Chair asked Mr. Rudd if he would be adverse to restricting the driveway to a "single residence" rather  
than a "single residential lot". He explained that two houses could be put on a residential lot, but Mr. Johnson said  
that was not allowed by the covenants.

Alix Wigglesworth presented the HOA position on the application by reading a prepared statement, as follows:

“Meduncook Plantation Homeowners Association fully supports the changes Machias Savings Bank is proposing including, 1) the redesign of the area at the end of Ocean Ridge Road including Lots 9 and 10 and therefore reducing the total number of lots in the subdivision to 25 and, 2) easements and transfer of roads, docks and all common areas to the respective three Homeowners Associations.”

Andrew Hedrich, of Gartley & Dorsky Engineering and Surveying, confirmed for Mr. Cobey that Ocean Ridge Rd. would have a maximum grade of 10%. Mr. Hedrick said that would not be changed, though the language of the transfer of all the common areas was being worked out. He also told the Chair there were no plans to change the side slopes.

**ACTION:** Mr. Ellis made a motion, seconded by Mrs. Kalloch, to find the application complete.  
Carried 5-0-0

The Chair commenced review. Mr. Hedrich said he had submitted a final plan and a list identifying all changes from preliminary to now, with the exception of the changed line, for which he had prepared a plan. Mr. Remian asked for that plan to be used as the final and explained that the area the engineer referred to was right along the common area shore, which was now 201' long. The Board agreed that the application would be reviewed under the December 2007 Subdivision regulations and the June 2009 Shoreland Zone regulations, with which they would start.

Chair Remian read the list of items due from the applicant after the last meeting and Mr. Hedrich explained their status. The Land Use Standards were the first items discussed:

**ACTION:** Mr. Remian made a motion, seconded by Mr. Cobey, that the new Lot 10 meets the minimum standards of Section 15 (A thru E).  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Remian, that the application satisfies Sections 15 (F thru I).  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mrs. Kalloch, that the application satisfies Sections 15 (J & K).  
Carried 5-0-0

**ACTION:** Mr. Remian made a motion, seconded by Mr. Cobey, that Sections 15 (L, M, and N) do not apply.  
Carried 5-0-0

**ACTION:** Mr. Ellis made a motion, seconded by Mr. Cobey, that Section 15 (O) does not apply.  
Carried 5-0-0

**ACTION:** Mr. Ellis made a motion, seconded by Mr. Muddle, that the application complies with Section 15 (P).  
Carried 5-0-0

**ACTION:** Mr. Remian made a motion, seconded by Mr. Cobey, that Section 15 (Q), Erosion and Sediment Control, was complied with.  
Carried 5-0-0

**ACTION:** Mr. Remian made a motion, seconded by Mrs. Kalloch, that Section 15 (R), Soils, is satisfied.  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Remian, that Section 15 (S) does not apply.  
Carried 5-0-0

**ACTION:** Mr. Ellis made a motion, seconded by Mr. Remian, that Section 15 (T) does not apply  
Carried 5-0-0

Mr. Cobey asked that the Board deal with the waiver before moving forward. Mr. Hedrich had provided a revised waiver and agreed that the words "Maplejuice Cove" should be replaced by "Meduncook River" in that waiver.

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Muddle, to approve the waiver request as received, with the change from "Maplejuice Cove" to "Meduncook River".  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Remian, that the application satisfies Section 16 (F) (3) (a thru i).  
Carried 5-0-0

The Board moved to Subdivision review. Chair Remian asked Mr. Hedrick to correct the application to show the increased size of Lot 10 from 6.8 acres to 7.02 acres. He then checked that requested changes had been made.

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Remian, that the application is in compliance with Performance Standards Sections A through E.  
Carried 5-0-0

**ACTION:** Mr. Ellis made a motion, seconded by Mr. Remian, that Performance Standards Section F does not apply.  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mrs. Kalloch, that Performance Standards Section G does not apply.  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Ellis, that the application complies with Performance Standards Sections H, I, J, and K.  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Remian, that Performance Standards Section L does not apply.  
Carried 5-0-0

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Remian, that the application complies with Performance Standards Section M.  
Carried 5-0-

**ACTION:** Mr. Ellis made a motion, seconded by Mr. Cobey, that Performance Standards Sections N, O, P, and Q do not apply.  
Carried 5-0-0

Mr. Hedrick said the applicant was willing to sign a statement saying it would not sell any lots until the road construction had been completed and approved by the Town.

**ACTION:** Mr. Cobey made a motion, seconded by Mr. Ellis, that the application is in compliance with Section 7, except that Subsections C & D applied only to the amended Lot 10.  
Carried 5-0-0

**5. Application for Building Permit, Map 6, Lot 22-7 at 109 Hornbarn Hill, presented by Carlton Johnson for Machias Savings Bank. The lot is zoned as Resource Protection and Limited Residential:** Chair Remian said he and Carlton Johnson had agreed earlier that there were some issues they would like to get settled so that when the remainder of these lots came forward they would meet the same criteria. Andrew Hedrich of Gartley & Dorsky said he had put all of the information required for the permitting process on the site plan so all information would be on the one signed plan. He said there were 7 or 8 split lots within Meduncook Bay Colony and all would have to go through this process prior to closing. Mrs. Kalloch noted that the setbacks and side yards Mr. Tower had placed in the covenants afforded very little choice in building location. Mr. Johnson said the Cornerpost survey plan

presented tonight was not based on the subdivision plan presented by Mr. Tower. Mr. Cobey said he would be more comfortable having a surveyor or engineer's name on the site plan that outlined the RP area. Chair Remian said the plan should carry a note saying it superseded the original subdivision topo and RP outlines. Mr. Cobey asked that the staked septic system and footprint of the building be placed on the same plan, in order to calculate the limits of clearing.

Mr. Cobey thought the building's placement was unrealistic, though he could not tell for certain if the proposed building would require grading into the RP area. Mr. Hedrich asked if showing the limits of clearing would be sufficient, in conjunction with a note stating that all clearing regulations would be followed. Mr. Cobey replied that there would be conditions with an approval; one of them might be returning, even after approval, with a plan showing compliance with ordinance regulations. Mr. Johnson stated his understanding that clearing or intrusion into an RP area would be a CEO function, so the plan would not need to come back to the PB after approval. Mr. Cobey agreed.

Mr. Cobey said one quarter of the frontage on Hornbarn Cove had unstable slopes; in that case, setback would be measured from the top of the slope. CEO Bickford suggested an engineer's depiction of the slope stability would answer the question of whether they were accurately identified. He said the key to the issue was that when the developer or owner crossed the line into RP, he had crossed into PB territory. There was extended discussion of unstable soils determination. Mr. Ellis said the report should include information as to whether the RP area would have an impact on the building of this particular home.

Mr. Remian asked that the existing and proposed limits of clearing, as well as the septic area, be depicted on the plan. Mr. Ellis said depicting the limits of clearing was one of the standards. Mr. Johnson asked for PB guidance in dealing with what transpired on the portion of the lot not in RP, which appeared to fall under the CEO. He suggested unstable soils delineation be done for all of the split zones, so he could advise future owners where they could build. Mr. Hedrich said he would submit a plan for Lots 1 through 10, depicting the Shoreland Zone, RP and the 75' setback for PB verification. The Board agreed this was a good idea, but Mr. Ellis pointed out this would be a map amendment, which would require a town vote. Mr. Cobey said there were provisions for engineers to present new boundaries and supersede the Shoreland Zone map without Town approval. Mr. Remian agreed.

Mr. Johnson asked to revisit the data in order to compile a list of items needed for compliance. Mr. Cobey listed clearing, unstable soils and Section 13(5). Mr. Johnson added the note that said this plan's topo superseded Mr. Tower's plan. Mr. Cobey suggested a modification to the drainage plan.

The PB rescheduled its June meeting to the 9<sup>th</sup>. Mr. Hedrich promised to have all submittals to the CEO by June 4.

**6. Old Business:** There was discussion of approval of the new subdivision regulations and whether they could be printed and distributed.

Mr. Cobey said the Board had changed two things in its by-laws: 1) added "the Board should draft any changes to the Shoreland Zone ordinance in the Subdivision regulations and shall propose them as amendments on a vote of approval by not less than three members", and 2) "the Chair shall refer proposed amendments to the Subdivision regulations and Shoreland Zone ordinance to the Ordinance Committee for review and comment as to possible conflict with other Town ordinances." Mr. Cobey said these changes had never been presented for Select Board approval. Mr. Remian said that would be on the agenda for the next meeting.

Mr. Remian said Table 14-1 in Section 15 in Shoreland Zone ordinance did not define "temporary" and "permanent", but Mr. Cobey said they were included in the Definitions section. Mr. Cobey suggested saying 15A is permanent, as defined in Section 17; 15B is temporary, as defined in Section 17; and 15C is other structures, as defined in Sections 3 and 17.

**7. Adjournment:** The meeting was adjourned at 8:43 P.M.

Respectfully submitted,

Deborah E. Sealey  
Recording Secretary